

Application Serial No.: 09/344,526
Filing Date: June 24, 1999

Express Mail No.
EV 298967105 US

PATENT

Attorney Docket No. A-66828-2/RMS/DCF/NHT (469249-174)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

CHEE *et al.*

Serial No.: 09/344,526

Filed: June 24, 1999

For: *Methods of Making and
Decoding of Array Sensors
with Microspheres*

Group No. 1631

Examiner: Marschel, Ardin H.

TERMINAL DISCLAIMER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Petitioner, **Illumina, Inc.**, represents that it is the assignee of the entire right, title, and interest of:

- (1) the instant application, U.S.S.N. 09/344,526, which is a continuation-in-part application of U.S.S.N. 09/189,543, filed November 10, 1998; which claims the benefit of the filing date of provisional application U.S.S.N. 60/090,473 filed June 24, 1998; and
- (2) co-pending application U.S.S.N. 09/748,706, which claims the benefit of U.S.S.N.s 60/235,531, filed September 26, 2000 and 60/172,106, filed December 23, 1999, and claims priority to U.S.S.N. 09/344,526, filed June 24, 1999, and U.S.S.N. 09/189,543, filed November 10, 1998;

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which claims the benefit of the filing date of provisional application 60/090,473, filed June 24, 1998.

Written proof of the assignment for Serial No. 09/344,526 is recorded in the U.S. Patent and Trademark Office at Reel/Frame 010207/0076. Written proof of the assignment Serial No. 09/748,706 is recorded in the U.S. Patent and Trademark Office at Reel/Frame 012624/0901. Copies of the assignments are attached to this Terminal Disclaimer.

Illumina, Inc. hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154-156 and 173, as shortened by any terminal disclaimer, of any patent arising from co-pending application U.S.S.N. 09/748,706.

Illumina, Inc., hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent that should arise from co-pending application U.S.S.N. 09/748,706 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, Illumina, Inc. does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154-156 and 173 of co-pending application U.S.S.N. 09/748,706, as shortened by any terminal disclaimer, in the event that the patent later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer.

The undersigned is empowered to act on behalf of the petitioner/assignee. The undersigned has reviewed the evidentiary documents in the chain of title of the present

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application identified above, and certifies that, to the best of assignee's knowledge and belief, title is in the assignee, Illumina, Inc.

I, the undersigned, hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that willful, false statements may jeopardize the validity/enforceability of the application or any patent issued thereon.

Respectfully submitted,
DORSEY & WHITNEY LLP

Dated: February 19, 2004
Customer Number: 32940
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